

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

OSCAR M. GONZALEZ,

Plaintiff,

v.

**INMAN TRUCKING, INC. and
JAMES PERRY LASSITER,**

Defendants.

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Cause Number: 3:16-CV-00006-DB

**DEFENDANTS INMAN TRUCKING, INC. AND JAMES PERRY LASSITER'S
OPPOSED MOTION TO COMPEL MEDIATION**

COMES NOW Inman Trucking, Inc. and James Perry Lassiter (“Defendants”) by and through their counsel of record, and file this Motion to Compel Mediation pursuant to Local Rule CV-88, and would respectfully show the Court as follows:

I.

1. On February 12, 2016, the Court entered its Scheduling Order. (Exhibit A, Scheduling Order). Pursuant to the Scheduling Order, the Court ordered the parties to provide a report on alternative dispute resolution in compliance with Local Rule CV-88 by February 26, 2016. (Id.)

2. The parties filed a Joint ADR Report on February 22, 2016, indicating that the parties believed mediation would be an appropriate alternative dispute resolution mechanism for this matter. (Exhibit B, Joint ADR Report). The parties notified the court that mediation would be held with Jim Curtis to be scheduled at some point after completion of initial discovery. (Id.)

3. Since that time, the parties have conducted discovery and Plaintiff has made a demand. Defendants have attempted to schedule mediation, but Plaintiff has declined to

schedule mediation.

4. This matter is currently set for trial on March 6, 2017.

II.

5. Local Rule CV-88 provides, “The court may refer a case to ADR on the motion of a party, on the agreement of the parties, or on its own motion....” W.D. TEX. LOCAL CIVIL RULE CV-88. Defendants respectfully request that the Court order the parties to mediation because Defendants believe that a formal mediation would be beneficial to all parties.

6. Defendants believe this matter is appropriate for mediation. Discovery has concluded and the trial setting is imminent. This is a matter with questionable liability and damages. The parties are familiar with all issues in the case, and Defendants believe that the current posture of the case presents an opportunity for the parties to evaluate their positions before the case proceeds to trial.

7. Moreover, in the interest of judicial economy and given the amount of damages at issue and the amount of legal fees already expended by the parties, it would be beneficial for the parties to try and resolve this matter before proceeding to trial.

III.

8. Counsel for Plaintiff has declined Defendants’ invitation to mediate this matter.

IV.

Accordingly, for these reasons, Defendants respectfully request the Court to grant this Motion to Compel Mediation and further grant Defendants any additional and further relief to which they may be justly entitled.

Respectfully submitted,

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By: /s/ M. Mitchell Moss

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of January, 2017, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to the following persons:

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/s/ M. Mitchell Moss
M. MITCHELL MOSS

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
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SCHEDULING ORDER

Pursuant to Rule 16, Federal Rules of Civil Procedure, the Court issues the following Scheduling Order:

1. A report on alternative dispute resolution in compliance with Rule CV-88 shall be filed by **February 26, 2016**.
2. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties by **April 1, 2016**, and each opposing party shall respond, in writing, by **April 15, 2016**.
3. The parties shall file all motions to amend or supplement pleadings or to join additional parties by **March 4, 2016**.
4. All parties asserting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file, the materials required by Federal Rule of Civil Procedures 26(a)(2)(B) by **June 3, 2016**. Parties resisting claims for relief shall file their designation of testifying experts and shall serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) by **June 24, 2016**. All designations of rebuttal experts shall be filed within 14 days of receipt of the report of the opposing expert.

5. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, not later than **20** days of receipt of the written report of the expert's proposed testimony, or not later than **10** days of the expert's deposition, if a deposition is taken, whichever is later.

6. The parties shall complete all discovery on or before **July 8, 2016**. Counsel may by agreement continue discovery beyond the deadline, but there will be no intervention by the Court except in extraordinary circumstances, and no trial setting will be vacated because of information obtained in post-deadline discovery.

7. All dispositive motions as defined in Rule CV-7(c) shall be filed no later than **August 8, 2016**. All dispositive motions and responses to dispositive motions shall have a twenty-page limit.

8. This case is set for trial [docket call, or jury selection] on Oct. 17, 2016 at 9:15 a.m. Parties should consult Rule CV-16 regarding matters to be filed in advance of trial.

SIGNED this 12th day of FEB., 2016.


UNITED STATES DISTRICT JUDGE

APPROVED:

By: /s/Enrique Moreno
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ATTORNEY FOR PLAINTIFF

Date: February 11, 2016

And

By: /s/ M. Mitchell Moss
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ATTORNEYS FOR DEFENDANTS

Date: February 11, 2016

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
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JOINT ADR REPORT

Pursuant to Local Rule CV- 88(b) and the Court's Scheduling Order, the parties jointly submit this ADR Report and would show as follows:

1. **Status of settlement negotiation.**

The parties have not yet engaged in any meaningful settlement negotiations.

2. **Identity of person(s) responsible for settlement negotiation for each party.**

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3. **Evaluation of appropriateness of Alternative Dispute Resolution.**

The parties believe that binding mediation will be an appropriate alternative dispute resolution mechanism for this matter. However, the parties believe that prior to attending mediation, they will need to complete some initial discovery. The parties have tentatively agreed upon mediation with Jim Curtis, who is located at 221 North Kansas, Suite 1700, El Paso, TX 79901, and will be compensated equally by all parties. The parties have agreed to schedule mediation in accordance with the Court's Scheduling Order.

ALTERNATIVE DISPUTE RESOLUTION CERTIFICATION

Pursuant to Local Rule CV-88(b), the parties hereby certify that their respective clients have been informed of the ADR procedures available in this district.

Respectfully submitted,

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